



TR 0928AUS

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Matti Sallberg

Appl. No. : 09/930,591

Filed : August 15, 2001

For : HEPATITUS C VIRUS NON-  
STRUCTURAL NS3/4A  
FUSION GENE

Examiner : Unknown

) Group Art Unit 1642

) I hereby certify that this correspondence and all  
) marked attachments are being deposited with the  
) United States Postal Service as first-class mail in  
) an envelope addressed to: Assistant  
) Commissioner for Patents, Washington, D.C.  
) 20231, on

) March 20, 2003

) (Date)

) Eric S. Furman, Ph.D., Reg. No. 45,664

PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
BASED ON FAILURE TO RECEIVE OFFICE ACTION  
UNDER 37 C.F.R. 1.181(a)

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Applicant hereby petitions to withdraw a holding of abandonment of the above-referenced application because the Office Action forming the basis of the abandonment was never received by our offices.

The above-referenced application was filed without a declaration from the inventor on August 15, 2001. A Notice to File Missing Parts of Nonprovisional Application was apparently mailed on January 16, 2002; however, this Notice was never received by our offices.

Attached to this petition is a declaration by Lani K. Wimbush, Supervisor for U.S. Docketing for Knobbe, Martens, Olson & Bear, LLP. Ms. Wimbush attests to the fact that it is our standard procedure to digitally photograph each piece of correspondence received from the United States Patent and Trademark Office and that, after reviewing our archived correspondence from January 16, 2002 through April 16, 2002, we have determined that we did not receive the Notice to File Missing Parts of Nonprovisional Application that was mailed on January 16, 2002 ✓

Attachment A is a copy of the docket record for the above-referenced application showing that, as of March 15, 2003 we had not docketed receipt of either the filing receipt or the Notice to File Missing Parts of Nonprovisional Application. Attachment A (arrow) also shows the location on the docket record where the entry for the received Notice to File Missing Parts of Nonprovisional Application would be recorded had it been received.

Attachment B is a copy of the File Contents History for the above-referenced application that was available on the Patent Application Information Retrieval (PAIR) system on March 6,

Appl. No. : 09/930,591  
Filed : August 15, 2001

2003. As shown, the last entry in PAIR was on January 16, 2002 stating that the above-referenced application was incomplete but that a filing date had been assigned. There was no entry on PAIR stating that a Notice to File Missing Parts of Nonprovisional Application was mailed on January 16, 2002. It was only after speaking with the Office of Initial Patent Examination (OIPE) on March 6, 2003 that we were notified that a Notice to File Missing Parts of Nonprovisional Application had been mailed on January 16, 2002.

To date, we have not received a Notice of Abandonment for the above referenced application and, according to personnel at OIPE, as of March 6, 2003, the application is currently pending. In light of the fact that a timely response to the Notice to File Missing Parts of Nonprovisional Application was not filed, we have assumed that by operation of law the above-referenced application is now abandoned. Accordingly, based on the fact that Applicant was never notified of the Notice to File Missing Parts mailed January 16, 2002, Applicant respectfully requests that the above-referenced application be withdrawn from abandonment.

Attached hereto is a copy of a facsimile sent by OIPE on March 6, 2003, which includes the Notice to File Missing Parts of Nonprovisional Application that was mailed on January 16, 2002. To expedite prosecution, Applicant has also attached a properly signed declaration by the inventor and a check in the amount of \$65.00 to pay for the late filing fee. Applicant respectfully requests the grant of this petition and acceptance of the declaration and late filing fee as complying with the Notice to File Missing Parts of Nonprovisional Application.

Based on the foregoing, Applicant submits that the application is now in condition for examination and such action is earnestly solicited. If any undeveloped issues remain or if any issues require clarification, please call Applicant's attorney, Eric S. Furman at (619) 687-8643 (direct line), to resolve such issues promptly.

No fees are seen as being necessary for the filing of this petition, however, the Commissioner is authorized to charge any fees in connection with this paper to Deposit Account No. 11-1410.


Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: \_\_\_\_\_

3/22/03

By: \_\_\_\_\_

  
Eric S. Furman, Ph.D.  
Registration No. 45,664  
Attorney of Record  
2040 Main Street  
Fourteenth Floor  
Irvine, CA 92614  
(619) 235-8550

TRIEP.028AUS



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant	:	Matti Sallberg	)	Group Art Unit 1642
			)	
Appl. No.	:	09/930,591	)	
			)	
Filed	:	August 15, 2001	)	
			)	
For	:	HEPATITUS C VIRUS NON- STRUCTURAL NS3/4A FUSION GENE	)	
			)	
Examiner	:	Unknown	)	

**Declaration of Lani K. Wimbush**

United States Patent and Trademark Office  
P.O. Box 2327  
Arlington, VA 22202

Dear Sir:

I, Lani K. Wimbush, Supervisor of U.S. Docketing for Knobbe, Martens, Olson & Bear, LLP (the "Firm") hereby declare under oath the following:

(1) I have worked for the Firm for fifteen (15) years as the Supervisor of U.S. Docketing, which is the department that is responsible for processing approximately 4,000 pieces of incoming correspondence from the United States Patent and Trademark Office each month.

(2) Our standard procedure for docketing and processing the incoming mail from the United States Patent and Trademark Office dictates that after opening the envelopes, the correspondence is date-stamped, sorted, and a digital picture is taken of the first and/or second page of each piece of correspondence. These digital photographs are then recorded onto digital media and stored.

(3) Our office has reviewed the digital images of all correspondence we have received from the United States Patent and Trademark Office between the dates of January 16, 2002 through April 16, 2002 and I attest to the fact that our firm did not receive the Notice to File Missing Parts of Nonprovisional Application that was mailed January 16, 2002.

(4) *Attachment A* is a copy of the docket record for the above-referenced application showing the time period in which the Notice to File Missing Parts of Nonprovisional Application should have been received. On this docket record, the place where the non-received Notice to File Missing Parts of Nonprovisional Application would have been entered had it been received is indicated.

I hereby declare that all statements made herein of my own knowledge are true, and all statements made on information and belief herein are believed to be true and are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of this application or any granting of the application resulting therefrom.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 7, 2003

By: Lani K. Wimbush  
Lani K. Wimbush  
2040 Main Street  
14th Floor  
Irvine, CA 92614

# Country Application

ATTACHMENT A

Friday, March 07, 2003

**Case Number: TRIPEP.028AUS**

**Country:** US United States of America

**SubCase:**

**NP Instr. Date:**

**Case Type:** ORD

**Status: Pending**

**Application Number:** 09/930591

**Filing Date:** 15-Aug-2001

**Patent Number:**

**Issue Date:**

**Publication Number:**

**PublicationDate:**

**Expir. Date:**

**Entity:** SE

**AbandonedDate:**

**Agent:**

**Client:** TRIPEP

**Prosecuting**

**Agent Ref#:**

**Tax Due Date:**

**Priority Date:**

**Annuity Number:**

**BarCodeDate:**

**Priority Number:**

**Tax Start Date:**

**Assignee:**



**Inventors:** SALLBERG, MATTI

**Invention Attorney(s):** AOK

ESF

**Title:** HEPATITUS C VIRUS NON-STRUCTURAL NS3/4A FUSION GENE

**Remarks:** BASED ON 60/225,767 FILED 8/17/00

**User ID:** CAM

**Date Created:** 16-Oct-2000

**Last Update:** 05-Mar-2003

## List Of User Actions

Action(s) Due	Due Date	Indicator	Action Taken
Postcard Recvd?/Supp IDS	04-Jun-2003	Reminder	
Postcard Recvd?/IDS	07-May-2003	Reminder	19-Feb-2003
Filing Receipt Received?	15-Mar-2003	Reminder	
* Notice Missing Parts Recvd?	15-Mar-2003	Due Date	
STATUS CHECK	15-Mar-2003	Due Date	
Application Status Check	15-Feb-2003	Due Date	11-Feb-2003
Postcard Recvd?/IDS	30-Dec-2002	Reminder	08-Oct-2002
File Related App before Pub?	15-Dec-2002	Reminder	15-Dec-2002
FILE WITH PTO	28-Oct-2002	Due Date	13-Sep-2002
IDS DUE-10th EXT	15-Sep-2002	Due Date	13-Sep-2002
Foreign Filing Due	15-Aug-2002	Final	08-Aug-2002
F/FILING 5-DAY REMIND	09-Aug-2002	Due Date	08-Aug-2002
*L/C F/F 10 MON	15-Jun-2002	Due Date	15-Jul-2002
Foreign Filing Reminder	15-Feb-2002	Due Date	15-Feb-2002
* → File Priority Claim Deadline	15-Dec-2001	Reminder	15-Dec-2001
Information Disclosure Stmtnt	15-Nov-2001	Due Date	14-Nov-2001
Postcard Received?	15-Nov-2001	Reminder	29-Aug-2001
Amended Publication?	17-Oct-2001	Final	17-Oct-2001

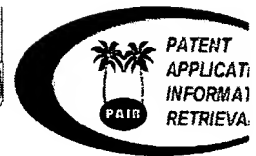


ATTACHMENT B

UNITED STATES PATENT AND TRADEMARK OFFICE

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- [Employee Locator](#)
- [Class/Subclass GAU Information](#)
- [Information Contacts](#)

Search results for application number: 09/930,591		
Filing or 371(c) Date:	08-15-2001	Class / Sub-Class: -/-
Issue Date of Patent:	-	Location: OIPE - MISSING PARTS-CENTRA CP6 LOBBY
Examiner Name:	-	Status: Application Undergoing Preexam
Group Art Unit:	1642	Attorney Docket Number: TRIPEP.028AUS
Earliest Publication No:	-	Patent Number: -
Earliest Publication Date:	-	Customer Number: 20995
Confirmation Number:	3174	

[Foreign Priority](#)

[Continuity Data](#)

[Publication Review](#)

File Contents History		
Number	Date	Contents Description
6	01-16-2002	Incomplete Application under Rule 53(b) - Filing Date Assigned
5	12-14-2001	Correspondence Address Change
4	09-18-2001	CRF Is Good Technically / Entered into Database
3	08-24-2001	Application Scanned
2	08-15-2001	CRF Disk Has Been Received by Preexam / Group / PCT
1	08-15-2001	Initial Exam Team nn

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## PATENT

Case Docket No. TRIPEP.028AUS

Date: March 20, 2003

Page 1

In re application of : Matti Sallberg  
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Examiner : Unknown  
Art Unit : 1642

) I hereby certify that this correspondence and all  
) marked attachments are being deposited with the  
) United States Postal Service as first class mail in  
) an envelope addressed to: United States Patent  
) and Trademark Office, P.O. 2327, Arlington, VA  
) 22202, on

March 20, 2003

(Date)

Eric S. Furman, Ph.D., Reg. No. 45,664

UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 2327  
Arlington, VA 22202

Sir:

Transmitted herewith for filing in the above-identified application are:

- (X) Petition to Withdraw Holding of Abandonment Based on Failure to receive Office Action Under 37 C.F. R. 1.181(a).
- (X) Declaration of Lani K. Wimbush.
- (X) Attachment A -- Docket face sheet.
- (X) Attachment B -- PAIR print out.
- (X) Return prepaid postcard.
- (X) Please charge any additional fees to Deposit Account No. 11-1410.

Eric S. Furman, Ph.D.  
Registration No. 45,664  
Attorney of Record  
Customer No. 20,995  
(619) 235-8550